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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/779,389 | 02/13/2004 | Masaru Yamaki | 1285-1-3 (FPK5-18A) | 9032 |

7590

09/09/2005

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EXAMINER

BARRERA, RAMON M

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/779,389

Applicant(s)

YAMAKI, MASARU

Examiner

Ramon M. Barrera

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/22/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 11, 12, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Levesque.

Levesque discloses a magnetic absorption device with a magnetic block 20 and permanent magnet assembly 60, and having pole members (34,36) separated with spacers (40,42) at an angle of about 120°. Connecting member 74 connects a plurality of the magnetic absorption devices and engaging member 90 has a hole capable of engaging a suspension member.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP3025361 in view of Levesque.

JP3025361 discloses a magnetic absorption device with a permanent magnet assembly 3 including a bar-like magnetic member 10 disposed in said

cavity and a pair of curved plate-like permanent magnets 11 magnetized in the thickness direction disposed around said magnetic member, and further discloses an end plate 15 attached to one end portion of the magnetic circuit block and having a through hole for receiving a part of the permanent magnet assembly, and a rotating member 4 connected with one end portion of the permanent magnet assembly so as to angularly rotate the permanent magnet assembly. JP3025361 did not disclose wherein spacers (6A,6B) are at angular intervals smaller than 180° about the axis or wherein the magnetic member 10 has a circular sectional shape.

Levesque discloses a magnetic absorption device wherein spacers (40,42) are at angular intervals smaller than 180° about the axis and wherein the magnetic member 60 has a circular sectional shape. Levesque is an equivalent structure known in the art. Therefore, because these two magnetic absorption devices were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute Levesque's teachings in JP3025361. Employing Levesque's teaching in JP3025361 of a magnetic member with a circular sectional shape results in a magnetic member having a simpler construction than a hexagonal sectional shape. Employing Levesque's teaching in JP3025361 of spacers at angular intervals smaller than 180° about the axis enables absorption to a top and side face rather than a top and bottom face of the device, as deemed advantageous for an intended application.

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5. Claim 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levesque in view of Anderson.

Levesque did not disclose a connecting member with a hole capable of engaging a suspension member. Anderson shows that a connecting member having a hole 32 is an equivalent structure known in the art. Therefore, because these two connection members were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute Levesque's connection member for Anderson's connection member.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levesque.

Levesque did not disclose where adjoining magnetic absorption portions are located on the same side. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to arrange Levesque's magnetic absorption devices so that adjoining magnetic absorption portions are located on the same side for the purpose of holding elongated objects.

Allowable Subject Matter

7. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


8. The following is a statement of reasons for the indication of allowable subject matter: JP3025361 in view of Levesque, the closest prior art of record, failed to teach or disclose the end plate has a first and a second recesses for receiving the handle so

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as to selectively maintain the permanent magnet assembly at a first and a second position releasably. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramon M. Barrera whose telephone number is (571) 272-1987. The examiner can normally be reached on Monday through Friday from 11 to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ramon M Barrera
Primary Examiner
Art Unit 2832

rmb